S.B.Cr.Misc. II Bail App. No. 1222/2006
IN
S.B.CRIMINAL APPEAL NO. 660/2003
(Dayal Singh Vs. State of Rajasthan)

Date of order : 06/09/2007

HON'BLE MR.H.R.PANWAR, J.

Ms. Kausar Parveen for the applicant-appellant.
Mr. V.R.Mehta, Public Prosecutor.

This is second bail application seeking suspension of sentence. Heard learned counsel for the applicant-appellant and public prosecutor for the State. Perused the judgment and order impugned. I have also carefully gone through the record of the trial court.

It is contended by learned counsel for the applicant-appellant that the deceased suffered single injury on skull as per the statement of PW-19 Dr. Anil Lahoti who stated that the deceased suffered a lacerated wound 1½ x ½ cm x bone deep on left parietal region which is the cause of death. It is further contended that this witness categorically stated that this injury cannot be caused by a sharp edged weapon. It is also contended that PW-1 and PW-2 both stated that the petitioner was armed with axe and inflicted injury by sharp side and one co-accused Kalusingh was having a chain who also inflicted injury on the skull of the deceased by chain. There is only one injury which has been assigned to two persons. The applicant-appellant is in custody for over six years and the appeal is not likely to come up for hearing in near future.

Having considered the totality of facts and circumstances of the case and the fact that the applicant-appellant is in custody for over six years and the appeal is not

likely to come up for hearing in near future, without commenting on the merit of the case which may prejudice the case of either party at the hearing of the appeal, I think it just and proper to suspend the substantive sentence of imprisonment awarded to the accused appellant-applicant.

Accordingly, the second bail application filed under Sec. 389 Cr.P.C. is allowed and it is ordered that the substantive sentence of imprisonment passed by the learned Additional Sessions Judge (Fast Track), Bhilwara vide judgment dt. 14.5.2003 in sessions case No. 104/03 against applicant -appellant Dayal Singh S/o Moti Singh shall remain suspended till final disposal of the aforesaid appeal provided he executes a personal bond in the sum of Rs. 20,000/- with two sureties of Rs.10000/- each to the satisfaction of the learned trial Judge for his appearance before this court on 09/10/2007 and whenever ordered to do so with the incorporation in the bond that as and when he will shift his place of residence, he will intimate to this Court and his lawyer about his new place of residence.

(H.R.PANWAR),J.

RP